

**Supporting Statement for
30 CFR Part 206, Subpart E—Indian Gas
(Form MMS-4411, Safety Net Report)
(OMB Control Number 1010-0103)
(Expiration Date: January 31, 2003)**

A. Justification

1. What circumstances make this collection of information necessary?

The Secretary of the U.S. Department of the Interior (DOI) is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage mineral resources production on Federal and Indian lands, collect the royalties due, and distribute the funds in accordance with those laws. The Secretary also has an Indian Trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The Minerals Management Service (MMS) performs the royalty management functions and assists the Secretary in carrying out the DOI Indian trust responsibility.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to assure that the royalties are paid appropriately.

On August 10, 1999, MMS published in the Federal Register (64 FR 43506) a final rulemaking titled "Amendments to Gas Valuation Regulations for Indian Leases," with an effective date of January 1, 2000. These regulations are codified at 30 CFR part 206, subpart E. Form MMS-4411, Safety Net Report, part of MMS's Indian gas valuation regulations, governs the valuation for royalty purposes of natural gas produced from Indian leases. In 30 CFR 206.172(e) (Attachment 1), MMS requires that lessees submit Form MMS-4411, (Attachment 2) when gas production from an Indian lease is sold beyond the first index pricing point. The gas regulations apply to all gas production from Indian (Tribal or allotted) oil and gas leases (except leases on the Osage Indian Reservation). Form MMS-4411 ensures Indian mineral lessors receive the maximum revenues from mineral resources on their land consistent with the Secretary's trust responsibility and lease terms. It permits lessees to comply with the regulatory requirements at the time that royalties are due.

The safety net calculation establishes the minimum value, for royalty purposes, of natural gas production from Indian leases. This reporting requirement will assist the Indian lessor in receiving all the royalties that are due and aid MMS in its compliance efforts. The safety net price is calculated using prices received for gas sold downstream of the first index pricing point.

It will include only the lessee's or the lessee's affiliate's arm's-length sales price, and it will not require detailed calculations for the costs of transportation. By June 30 following any calendar year, the lessee calculates a safety net price for each month of the previous calendar year. Lessees must calculate the safety net prices for each index zone where the lessee has an Indian lease. The safety net price will capture the significantly higher values for sales occurring beyond the index point. The lessee will submit its safety net prices to MMS annually (by June 30) using Form MMS-4411.

We are also revising this information collection request (ICR) to include reporting requirements that were not identified in the last ICR when the final rule was published. These reporting requirements are rare and unusual in circumstances where the standard valuation procedures set out in the Indian gas valuation rule are not appropriate.

We have also changed the title of this ICR from "Safety Net Report" to "30 CFR part 206, subpart E—Indian Gas (Form MMS-4411, Safety Net Report)," to clarify the regulatory language we are covering under 30 CFR part 206.

MMS is requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge his/her duties and may also result in loss of royalty payments to the Indian lessor due to royalties not being collected on prices received under high priced long-term sales contracts.

2. How, by whom, and for what purpose will the information be used?

The lessees submit a separate Form MMS-4411 for each index zone where the lessee has an Indian lease and the gas is sold beyond the first index pricing point. The lessee will compare the amount that is 80 percent of the safety net price to the amount that is 125 percent of the monthly index-based value for the index zone. The lessee will owe additional royalties plus late-payment interest if 125 percent of the index-based value is less than 80 percent of the safety net price. We will have 1 year from the date the lessee's Form MMS-4411 is due or is filed, whichever is later, to order the lessee to amend its safety net price calculation. If we do not order any adjustment to the safety net price, the safety net price would be final for the lessee. This report will allow MMS and the Tribes to ensure that Indian mineral lessors receive the maximum revenues from mineral resources on their land consistent with the Secretary's trust responsibility and lease terms.

The lessee or operator will know the disposition of the gas, and the safety net price will include only the lessee's or the lessee's affiliate's arm's-length sales prices. The lessee would only include sales under those contracts that establish a delivery point beyond the first index pricing point to which the gas flows. Moreover, those contracts must include any gas produced from or allocable to one or more of the lessee's Indian leases in the index zone. The MMS or Tribal auditors, Indian representatives, and personnel from MMS' Indian Compliance and Asset Management will use the information provided on the form.

Please refer to the chart at the end of Section B for all reporting requirements and associated burden hours covered in this ICR.

3. Does the collection of information involve the use of information technology, does it reduce the burden, and to what extent?

Form MMS-4411 is available on MMS's web site for lessees to print, complete, and mail to MMS. In addition, most companies having Indian leases use computers to maintain lease data. However, in view of the small number of leases involved, and the differing and complex computer system designs maintained by the companies operating these leases, we are not requiring lessees to submit this information electronically. We will, however, accept any information that is submitted electronically. Our Government Paperwork Elimination Act Plan indicates that this ICR has too few respondents to be cost effective to develop an electronic submission.

The requested information is, for the most part, completed to fulfill specific requirements in our Indian gas valuation regulations. Because most of the reporting requirements in this ICR apply to exceptions to standard procedures, they are relatively few, infrequent, and non-standard and, therefore, not conducive to electronic submission.

4. Is the information duplicated by any other Federal agency, and can similar information be used or modified for this collection?

Information collected on Form MMS-4411 is not collected by any other Federal agency. The Form MMS-4411 is unique and submitted for each index zone where the lessee has an Indian lease and Indian gas production is sold beyond the first index pricing point. Each index zone is named for identification and a separate form must be filed for each index zone. No other Federal agency collects similar information that can be modified for this collection.

The remaining reporting requirements are unique to our mission, and no other adequate information is available to determine royalties.

5. What is the agency doing to minimize the burden on small businesses or other small entities?

Because small businesses are among potential respondents, MMS has carefully analyzed its requirements to ensure that the information requested is the minimum necessary to accomplish our mission and places the least burden on industry. Form MMS-4411 requires only nominal lease data and a standard weighted-average calculation in order to complete it. MMS offers reporter training on a regular basis and toll-free telephone assistance is available. There are no special provisions for mitigating reporting requirements for small businesses.

6. What are the consequences to the Federal program or policy if the information is not collected or is collected less frequently; and are there technical or legal obstacles to reducing the burden?

By delegation of the Secretary's trust responsibilities under Indian lease terms, MMS is responsible for assuring the proper valuation of production from Indian leases. Not collecting the information would limit the Secretary's ability to discharge his/her duties and may also result in loss of royalty payments to the Indian lessor due to royalties not being collected on prices received under higher priced long-term sales contracts.

7. Are there any special circumstances that require exceptions to 5 CFR 1320.5(d)(2) requiring respondents to (i) report more often than quarterly, (ii) prepare written responses in fewer than 30 days after receipt, (iii) submit more than an original and two copies of any document, or (iv) retain records for more than 3 years?

This collection of information is consistent with the provisions at 5 CFR 1320.5(d)(2) except for (iv). In accordance with 30 U.S.C. 1713(b), Indian oil and gas records must be maintained for 6 years after the records are generated unless the Secretary notifies the record holder that such records must be maintained for a longer period due to an ongoing audit or investigation. There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(v) through (viii), as the collection is not a statistical survey and does not use statistical data classification; nor does it include a pledge of confidentiality not supported by statute or regulation or require proprietary, trade secret, or other confidential information not protected by agency procedures.

8. What efforts did the agency make to consult with the public and a representative sample of respondents?

As required in 5 CFR 1320.8(d), MMS published a 60-day review and comment notice in the *Federal Register* on November 1, 2002 (67 FR 66658) (Attachment 3). We received no comments in response to this notice.

9. Will payment or gifts be provided to respondents?

No payments or gifts will be provided to the respondents.

10 What assurance of confidentiality is provided to respondents?

Commercial or financial information provided to MMS relative to minerals removed from Indian leases may be proprietary. Trade secrets, proprietary and other information are protected in accordance with standards established by the Federal Oil and Gas Royalty Management Act of 1982, as amended (30 U.S.C. 1733), the Freedom of Information Act (5 U.S.C. 552(b)(4)), and Department regulations (43 CFR 2). The Indian Minerals Development Act of 1982 (25 U.S.C. 2103) provides that all information related to any Indian minerals agreement covered by the Act

in the possession of the Department shall be held as privileged proprietary information. Storage of proprietary information and access to it is controlled by strict security measures.

11. Does the information collected include any questions of a sensitive nature?

None of the information requested is considered sensitive.

12. What is the estimated respondent reporting and recordkeeping "hour" burden?

The annual reporting burden is 1,012 hours. We expect approximately 41 responses from 29 Indian lessees/lessors to submit the required information. The burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Using an average cost of \$50 per hour, the total cost to respondents is \$50,600. There are no additional recordkeeping costs. Refer to the chart following Section B. for a breakdown of the burden.

13. What is the estimated reporting and recordkeeping "non-hour" cost burden of the collection of this information, excluding any costs identified in Items 12 and 14?

We have identified no reporting or recordkeeping "non-hour" cost burdens for this collection of information.

14. What is the estimated annualized cost to the Federal Government?

We estimate that the Federal Government will spend 376 hours to analyze and review the required information. Based on \$50 per hour, the annualized cost to the Federal Government is \$18,800. Refer to the chart below for the cost breakdown.

Cost Breakdown for Federal Government

Section	Reporting or Recordkeeping Requirement	MMS Processing Time/Request	Annual Number of Requests	Total MMS Processing Time	Cost to Federal Government
206.172 (e)(6)(i) and (iii)	You must report the safety net price for each index zone to MMS on Form MMS-4411, Safety Net Report, no later than June 30 following each calendar year * * * MMS may order you to amend your safety net price within one year from the date your Form MMS-4411 is due or is filed, whichever is later.	3	24	72	\$3,600

Section	Reporting or Recordkeeping Requirement	MMS Processing Time/Request	Annual Number of Requests	Total MMS Processing Time	Cost to Federal Government
206.172 (f)(1),(2), and (3)	An Indian tribe may ask MMS to exclude some or all of its leases from valuation under this section . . . If an Indian tribe requests exclusion from an index zone for less than all of its leases, MMS will approve the request only if the excluded leases may be segregated into one or more groups based on separate fields within the reservation. . . . An Indian tribe may ask MMS to terminate exclusion of its leases from valuation under this section . . . The Indian tribe's request to MMS under either paragraph (f)(1) or (2) of this section must be in the form of a tribal resolution.	40	1	40	\$2,000
206.174 (f)	You may ask MMS for guidance in determining value. You may propose a valuation method to MMS. Submit all available data related to your proposal and any additional information MMS deems necessary.	40	1	40	\$2,000
206.175 (d)(4)	You may request MMS approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease.	40	1	40	\$2,000
<i>Transportation Allowances</i>					
206.178 (a)(1)(i)	You are required to submit to MMS a copy of your arm's-length transportation contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your report which claims the allowance on the Form MMS-2014.	1	2	2	\$100
206.178 (a)(2)(i) and (ii)	. . . you cannot take an allowance for the costs of transporting lease production that is not royalty bearing without MMS approval, or without lessor approval on tribal leases. . . . As an alternative to paragraph (a)(2)(i), you may propose to MMS a cost allocation method based on the values of the products transported.	20	1	20	\$1,000
206.178 (a)(3)(i) and (ii)	If your arm's-length transportation contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract, you must propose an allocation procedure to MMS. You are required to submit all relevant data to support your allocation proposal.	20	1	20	\$1,000

Section	Reporting or Recordkeeping Requirement	MMS Processing Time/Request	Annual Number of Requests	Total MMS Processing Time	Cost to Federal Government
206.178 (b)(2)(iv)	After you have elected to use either method [depreciation with a return on undepreciated capital investment or a return on depreciable capital investment] for a transportation system, you may not later elect to change to the other alternative without MMS approval.	16	1	16	\$800
206.178 (b)(2)(iv) (A)	Once you make an election [depreciation or unit of production method], you may not change methods without MMS approval.	16	1	16	\$800
206.178 (b)(3)(i)	Except as provided in this paragraph, you may not take an allowance for transporting a product that is not royalty bearing without MMS approval.	8	1	8	\$400
206.178 (b)(3)(ii)	As an alternative to the requirements of paragraph (b)(3)(i) of this section, you may propose to MMS a cost allocation method based on the values of the products transported.	See 206.178(a)(2)(ii)			
206.178 (b)(5)	If you transport both gaseous and liquid products through the same transportation system, you must propose a cost allocation procedure to MMS. . . You are required to submit all relevant data to support your proposal.	See 206.178(a)(3)(i) and (ii)			
Processing Allowances					
206.180 (a)(1)(i)	You are required to submit to MMS a copy of your arm’s-length processing contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your first report which deducts the allowance on the Form MMS-2014.	1	2	2	\$100
206.180 (a)(3)	If your arm’s-length processing contract includes more than one gas plant product and the processing costs attributable to each product cannot be determined from the contract, you must propose an allocation procedure to MMS . . . You are required to submit all relevant data to support your proposal.	20	1	20	\$1,000
206.180 (b)(2)(iv)	After you elect to use either method [depreciation with a return on undepreciable capital investment or a return on depreciable capital investment] for a processing plant, you may not later elect to change to the other alternative without MMS approval . . .	16	1	16	\$800

Section	Reporting or Recordkeeping Requirement	MMS Processing Time/Request	Annual Number of Requests	Total MMS Processing Time	Cost to Federal Government
206.180 (b)(2)(iv) (A)	Once you make an election, you may not change [depreciation or unit of production] methods without MMS approval.	16	1	16	\$800
206.180 (b)(3)	Your processing allowance under this paragraph (b) must be determined based upon a calendar year or other period if you and MMS agree to an alternative.	8	1	8	\$400
206.181 (c)	A proposed comparable processing fee submitted to either the tribe and MMS (for tribal leases) or MMS (for allotted leases) with your supporting documentation submitted to MMS. If MMS does not take action on your proposal within 120 days, the proposal will be deemed to be denied and subject to appeal to the MMS Director under 30 CFR part 290.	40	1	40	\$2,000
Total			41	376	\$18,800

15. Is the agency requesting any program changes or adjustments reported in items 13 and 14 of the Form OMB 83-I?

The current OMB inventory is 10,500 hours. We are reducing the burden by 9,488 hours to 1,012 hours as a result of the following actions:

- Adjustment of 9,900 hours to account for a reduction in the number of Forms MMS-4411 submitted (10,500 hours – 9,900 hours = 600 hours)
- Program change of 412 hours to account for an increase in burden for the previously overlooked reporting requirements (600 hours + 412 hours = 1,012 hours)

16. Are there plans for tabulation and publication of the results of the information collection?

The data collected will not be tabulated or published for statistical use.

17. Is the agency seeking approval to not display the expiration date?

No. We will display the expiration date of OMB's approval on Form MMS-4411.

18. Is the agency requesting exceptions to the certification statement in Item 19 of Form OMB 83-I?

To the extent the topics apply to this collection of information, we are not requesting exceptions to the "Certification of Paperwork Reduction Act Submissions."

B. Collections of Information Employing Statistical Methods

This section is not applicable. We will not employ statistical methods in this information collection.

Section A.12 Burden Breakdown

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
206.172 (e)(6)(i) and (iii)	You must report the safety net price for each index zone to MMS on Form MMS-4411, Safety Net Report, no later than June 30 following each calendar year * * * MMS may order you to amend your safety net price within one year from the date your Form MMS-4411 is due or is filed, whichever is later.	25	24	600
206.172 (f)(1), (2), and (3)	An Indian tribe may ask MMS to exclude some or all of its leases from valuation under this section . . . If an Indian tribe requests exclusion from an index zone for less than all of its leases, MMS will approve the request only if the excluded leases may be segregated into one or more groups based on separate fields within the reservation. . . An Indian tribe may ask MMS to terminate exclusion of its leases from valuation under this section . . . The Indian tribe's request to MMS under either paragraph (f)(1) or (2) of this section must be in the form of a tribal resolution.	40	1	40
206.174(f)	You may ask MMS for guidance in determining value. You may propose a valuation method to MMS. Submit all available data related to your proposal and any additional information MMS deems necessary.	40	1	40
206.175 (d)(4)	You may request MMS approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease.	20	1	20
Transportation Allowances				
206.178 (a)(1)(i)	You are required to submit to MMS a copy of your arm's-length transportation contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your report which claims the allowance on the Form MMS-2014.	8	2	16

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
206.178 (a)(2)(i) and (ii)	. . . you cannot take an allowance for the costs of transporting lease production that is not royalty bearing without MMS approval, or without lessor approval on tribal leases. . . . As an alternative to paragraph (a)(2)(i), you may propose to MMS a cost allocation method based on the values of the products transported.	20	1	20
206.178 (a)(3)(i) and (ii)	If your arm’s-length transportation contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract, you must propose an allocation procedure to MMS. You are required to submit all relevant data to support your allocation proposal.	40	1	40
206.178 (b)(2)(iv)	After you have elected to use either method [depreciation with a return on undepreciated capital investment or a return on depreciable capital investment] for a transportation system, you may not later elect to change to the other alternative without MMS approval.	20	1	20
206.178 (b)(2)(iv) (A)	Once you make an election [depreciation or unit of production method], you may not change methods without MMS approval.	20	1	20
206.178 (b)(3)(i)	Except as provided in this paragraph, you may not take an allowance for transporting a product that is not royalty bearing without MMS approval.	40	1	40
206.178 (b)(3)(ii)	As an alternative to the requirements of paragraph (b)(3)(i) of this section, you may propose to MMS a cost allocation method based on the values of the products transported.	See 206.178(a)(2)(ii)		
206.178 (b)(5)	If you transport both gaseous and liquid products through the same transportation system, you must propose a cost allocation procedure to MMS. . . . You are required to submit all relevant data to support your proposal.	See 206.178(a)(3)(i) & (ii)		
Processing Allowances				
206.180 (a)(1)(i)	You are required to submit to MMS a copy of your arm’s-length processing contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your first report which deducts the allowance on the Form MMS-2014.	8	2	16
206.180 (a)(3)	If your arm’s-length processing contract includes more than one gas plant product and the processing costs attributable to each product cannot be determined from the contract, you must propose an allocation procedure to MMS You are required to submit all relevant data to support your proposal.	40	1	40

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
206.180 (b)(2)(iv)	After you elect to use either method [depreciation with a return on undepreciable capital investment or a return on depreciable capital investment] for a processing plant, you may not later elect to change to the other alternative without MMS approval.	20	1	20
206.180 (b)(2)(iv) (A)	Once you make an election, you may not change [depreciation or unit of production] methods without MMS approval.	20	1	20
206.180 (b)(3)	Your processing allowance under this paragraph (b) must be determined based upon a calendar year or other period if you and MMS agree to an alternative.	20	1	20
206.181 (c)	A proposed comparable processing fee submitted to either the tribe and MMS (for tribal leases) or MMS (for allotted leases) with your supporting documentation submitted to MMS. If MMS does not take action on your proposal within 120 days, the proposal will be deemed to be denied and subject to appeal to the MMS Director under 30 CFR part 290.	40	1	40
Total			41	1,012